

REMARKS/ARGUMENTS

Claims 1, 2, 5-9 and 11-22 are currently pending.

Each claim is rejected.

Claims 1 and 22 have been amended. Support for these amendments can be found throughout the specification and drawings, as originally filed. The Applicant submits that the present response places the application in a condition for allowance, such action is courteously requested.

REJECTION UNDER 35 U.S.C. §103(a)

Claims 1, 2, 5-9 and 11-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,522,476 to Holman, in view of U.S. Patent No. 3,135,213 to Smith.

The Applicants respectfully traverse the 35 U.S.C. §103(a) rejection of claims 1, 2, 5-9 and 11-22.

The standard for obviousness is that there must be some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). Although the Examiner may suggest the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the desirability of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir.1989). There must be a teaching in the prior

art for the proposed combination or modification to be proper. *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d (BNA) 1248 (Fed. Cir. 1989). If the prior art fails to provide this necessary teaching, suggestion, or incentive supporting the Examiner's suggested modification, the rejection based upon this suggested modification is error and must be reversed. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990).

The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. § 112 ¶ 4.

In the interests of expediting the prosecution of the instant application, the Applicants have amended claim 1, to recite, among other things, a "pump housing having a flange with a pump element disposed therein, the pump element being in direct contact with the fluid to be pumped." Claim 1 has further been amended to recite "said pumping chamber including an intake port for receiving fluid from said fluid reservoir and an exit port for pumping fluid from said fluid reservoir, wherein said intake port and said exit port are oriented along a plane that extends adjacent the flange of the pump housing." These structural elements are illustrated in Figures 1 and 2, and in the specification at page 4, as originally filed. Thus, no new material is being presented by this amendment.

Neither the Holman or the Smith reference teach or disclose a pump with the structural limitations disclosed in claim 1. For example, Smith does not teach a pump housing having a flange with the pumping element being in direct contact with the pumping fluid, nor does it disclose an intake port and exit port being oriented along a plane that extends adjacent to flange of the pump housing. Accordingly, the prior art does not teach or disclose a pump having a structure as claimed in claim 1. Thus, claim

1, and the claims dependent thereon, are believed to be in allowable order and such action is courteously requested.

In the interests of expediting the prosecution of the instant application, the Applicants have amended claim 22, to recite, among other things, a “submerged pump housing having a base, a casing, and a cap.” It further has been amended to recite “a pump element located within the base and operably attached to said armature in said chamber for pumping fluid.” Claim 22 has further been amended to recite “said base and said inlet and said outlet are oriented along a common plane.” And finally, claim 22 has been amended to recite “wherein said pump element is selected from the group consisting of a gerotor, piston, spur gear, vane, crescent element, centrifugal, turbined, regenerative type pump and combinations thereof.” Support for these features were previously set forth in the specification, and in the figures, as originally filed. Accordingly, no new material is being added to claim 22.

Neither Holman and/or Smith et al., either alone or in combination therewith, suggests such a pump as now claimed. Accordingly, one of ordinary skill in the art would not look to either Holman and/or Smith et al., either alone or in combination therewith, for guidance on constructing a pump, as presently claimed.

Applicants submit that neither Holman and/or Smith et al., either alone or in combination therewith, renders claims 1 and 22 obvious. Furthermore, claims 2, 5-9 and 11-21, which depend from and further define claim 1, are likewise allowable.

Accordingly, the Applicants submit that the 35 U.S.C. §103(a) rejection of claims 1, 2, 5-9 and 11-22 has been overcome.

CONCLUSION

Applicant submits that the above amendments and arguments places this application in a condition for allowance and a request for reconsideration and examination of the application. Each issue raised by the Examiner in the February 17, 2006, Office Action has been successfully traversed, overcome, or rendered moot by this response. Accordingly, the Applicant courteously submits that each of the claims in this application is in condition for allowance and such action is courteously requested.

The Examiner is requested to contact the undersigned attorney at (248) 364-4300 in the event that there are any remaining unresolved issues.

Any need for extension of time is hereby requested with the filing of this document.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 501612. A duplicate copy of this letter is enclosed herewith.

Respectfully submitted,

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